

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIFFANY RECINOS,

Plaintiff,

v.

ST JOSEPH MEDICAL CENTER, et al.,

Defendants.

CASE NO. C23-6006 BHS

ORDER

THIS MATTER is before the Court on pro se plaintiff Tiffany Recinos's application for leave to proceed *in forma pauperis*, Dkt. 4, supported by her proposed amended complaint, Dkt. 4-1. As she has in most of the 35 other cases she has filed in this District this year, Recinos seeks \$3.25 million. *Id.* at 4. She does so in an apparent effort to meet the \$75,000 "amount in controversy" required for this Court's diversity jurisdiction under 28 U.S.C. § 1332. But she does not address the parties' diversity of citizenship, and instead affirmatively asserts that, like her, each defendant is a citizen of Washington. *Id.*

1 Recinos alleges that in 2010, while she worked at St. Joseph’s hospital, her ex-
2 husband attempted to murder her. She claims she should have received L&I benefits for
3 her resulting injuries and diseases. *Id.*

4 A district court may permit indigent litigants to proceed *in forma pauperis* upon
5 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The Court has
6 broad discretion in resolving the application, but “the privilege of proceeding *in forma*
7 *pauperis* in civil actions for damages should be sparingly granted[.]” *Weller v. Dickson*,
8 314 F.2d 598, 600 (9th Cir. 1963). A person is eligible to proceed *in forma pauperis* if
9 they are unable to pay the costs of filing and still provide the necessities of life. *See*
10 *Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 203
11 (1993) (internal quotations omitted).

12 Even if a plaintiff is indigent, a court should “deny leave to proceed *in forma*
13 *pauperis* at the outset if it appears from the face of the proposed complaint that the action
14 is frivolous or without merit.” *Tripathi v. First Nat’l Bank & Tr.*, 821 F.2d 1368, 1369 (9th
15 Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma*
16 *pauperis* complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Tripathi*,
17 821 F.2d at 1370 (citing *Rizzo v. Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *see also*
18 *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

19 A pro se plaintiff’s complaint is to be construed liberally, but like any other
20 complaint it must nevertheless contain factual assertions sufficient to support a facially
21 plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic*
22 *Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim for relief is facially plausible

1 when “the plaintiff pleads factual content that allows the court to draw the reasonable
2 inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678.

3 Ordinarily, the Court will permit pro se litigants an opportunity to amend their
4 complaint in order to state a plausible claim. *See United States v. Corinthian Colls.*, 655
5 F.3d 984, 995 (9th Cir. 2011) (“Dismissal without leave to amend is improper unless it is
6 clear, upon de novo review, that the complaint could not be saved by any amendment.”).

7 Recinos has failed to invoke this Court’s subject matter jurisdiction. She has not
8 asserted and could not assert a federal claim for Washington State L&I benefits, and the
9 parties are all citizens of Washington.

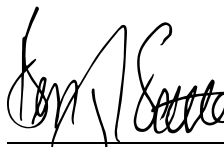
10 Furthermore, and in any event, by Recinos’s own account, her claims accrued in
11 2010. They are facially time-barred. There is nothing Recinos could change or add,
12 consistent with the allegations she has already made, that would state a plausible claim in
13 this Court. Recinos’s claims are without merit as a matter of law.

14 Recinos’s motion for leave to proceed *in forma pauperis* is **DENIED**. The case is
15 **DISMISSED** without prejudice and without leave to amend. The Court will not entertain
16 further filings in this case, other than a notice of appeal.

17 The Clerk shall enter a **JUDGMENT** and close the case.

18 **IT IS SO ORDERED.**

19 Dated this 5th day of December, 2023.

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BENJAMIN H. SETTLE
United States District Judge